

(To be confirmed 10 October 2017)

***Crs Ammons Noble, Anderson and Hayes returned to the chamber to participate in voting at 7.22pm.***

***Deputy Mayor Oliver advised that Council voted unanimously to invite them back into the Chamber to participate in the item.***

## **11 FUTURE LIFE AND BUILT LIFE PROGRAM REPORTS**

### **11.1 Amendment No. 73 to Town Planning Scheme No. 1 – Designation of Residential Character Study Area as a Special Control Area**

<b>File Reference:</b>	PLA/7/73
<b>Appendices:</b>	No
<b>Attachments:</b>	Yes
<b>Date:</b>	30 August 2017
<b>Reporting Officer:</b>	L. Parker
<b>Responsible Officer:</b>	R. Cruickshank
<b>Voting Requirement:</b>	Simple Majority

**Executive Summary:**

**Recommendation – Council support proposed Amendment No. 73 to Town Planning Scheme No. 1 subject to Modifications and recommend that the Council authorise the administration to advertise a Request for Quotation for an independent consultant(s) to undertake a community engagement project, review of Local Planning Policy 25 – Streetscape, and evaluate and recommend potential mechanisms for the retention of original dwellings and the protection of character streetscapes within the Residential Character Study Area.**

- Consultation on proposed Amendment 73 to Town Planning Scheme No. 1 for designation of the Residential Character Study Area as a Special Control Area has concluded.
- A proportionately small number of submissions (69) were received in response to the advertising of proposed Amendment 73 (almost 5000 letters), with the majority objecting to the proposal, in particular the proposed ability to issue Conservation Notices, reinstating the requirement for development approval to demolish a Single House, and many calling for the review of the Local Planning Policy – Streetscape.
- Due to the relatively small number of submissions received, it is unclear to what extent the community continues to value the retention of original dwellings within the Residential Character Study Area; or what measures are most appropriate to achieve dwelling retention and the protection of established character streetscapes.
- Recommended that proposed Amendment 73 proceed in a modified form, and that an independent comprehensive community engagement project be undertaken to evaluate the community’s views on the retention of original dwellings, and if necessary, the most appropriate methods to facilitate the retention of original dwellings within the Residential Character Study Area.
- Recommended that the community engagement project include the review of the Local Planning Policy- Streetscape in regard to dwelling retention and the design of new residential development within the Residential Character Study Area and the Town more generally.

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- Recommended that Amendment 73 be Supported subject to Modifications, reducing the Amendment to the reinstatement of the requirement for development approval for demolition of a Single House identified as an 'original dwelling', for a two year interim period, until such time as longer term development controls and revised policy measures can be implemented for the Residential Character Study Area.

**TABLED ITEMS:**

- Minutes of the Ordinary Council Meeting held on 14 June 2016;
- Amendment No. 73 Scheme Amendment Report;
- Community consultation letter & map of consultation area;
- Schedule of Submissions from community members;
- Schedule of Submissions from government agencies and service providers; and
- Proposed modified wording of Amendment 73 illustrating changes from advertised version.

**BACKGROUND:***Planning and Development (Local Planning Schemes) Regulations 2015*

The introduction of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) by the State Government in October 2015 has had an impact on the previously existing protections and dwelling retention measures under Council's Town Planning Scheme No. 1, by removing the need to obtain development approval for demolition of a Single House (unless protected by a formal heritage listing or located in a Special Control Area where the exemptions from development approval do not apply).

This legislation also affected the ability of the Town to apply the design requirements of Local Planning Policy 25 'Streetscape' to the construction of new Single Houses or alterations to existing Single Houses, where they comply with the requirements of the Residential Design Codes. As a consequence there is a risk that the traditional character of the Town's streetscapes within the Residential Character Study Area may be eroded over time, through the uncontrolled demolition of original dwellings where they exist as a Single House (i.e. a single dwelling on a single lot), and through the construction of potentially unsympathetic additions or new Single Houses that do not respect the character of the area.

Proposed Amendment 73 to TPS1

In view of the above, and following a number of Councillor Workshops which considered these issues, as well as other issues relating to the retention of original dwellings within the Residential Character Study Area, the Town's administration drafted proposed Amendment 73 to Town Planning Scheme No. 1 to reinstate the protections that previously existed for the Residential Character Study Area. The Amendment was also drafted to address a number of instances where unauthorised modification of original dwellings had occurred destroying their architectural integrity and other instances of very poor maintenance and neglect, in order for the original dwelling to fall into disrepair to a point that it is structurally unsound so as to permit demolition (i.e. "demolition through neglect").

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The intent of Amendment 73 is to re-instate the requirement for development approval that existed prior to October 2015, through the designation of the Residential Character Study Area as a Special Control Area. As a Special Control Area, the exemptions under the Regulations for demolition, and additions to or construction of a Single House (where compliant with the R-Codes) would no longer apply, and would therefore be subject to the dwelling retention and design requirements of Council’s Local Planning Policy 25 ‘Streetscape’, as continues to be the case for Grouped Dwellings and Multiple Dwellings within the Town’s residential areas.

The Council at its Ordinary Meeting held on 14 June 2016 resolved to initiate Amendment No. 73 to Town Planning Scheme No. 1, as follows:

“1. Council resolve pursuant to Section 75 of the Planning and Development Act 2005 to initiate an Amendment (Amendment No. 73) to the Town of Victoria Park Town Planning Scheme No. 1 by amending the Town Planning Scheme Text as follows:

1.1. Amend Clause 29A (1) of the Scheme Text by including the following additional type of Special Control Area:

(c) Residential Character Areas shown on the Precinct Plans as RC with a number and included in Schedule 7.

1.2. Insert in to ‘Division 3 – Special Control Areas’ of the Scheme Text the following Clause:

29AC. RESIDENTIAL CHARACTER AREAS  
Schedule 7 describes the Residential Character Areas in more detail and sets out the purpose and particular requirements that may apply to the Residential Character Areas.

1.3. Amend “SCHEDULE 7: SPECIAL CONTROL AREA” contained in the Scheme Text to include a new Special Control Area – RC 1 and to incorporate the following text:

Area No	Land Description	Purpose and Particular Requirements
RC 1	The whole of the area of land designated as RC1 on the Precinct Plans (known as the Residential Character Special Control Area).	(1) Definitions In this section – <ul style="list-style-type: none"> <li>• ‘Conservation notice’ means a notice given under Clause 5, subclause (a);</li> <li>• ‘Original dwelling’ means a dwelling that has been identified as an original dwelling within a local planning policy adopted for the Residential Character Special Control Area;</li> <li>• ‘Properly maintained’, in relation to an ‘original dwelling’, means maintained in a way that ensures that there is no actual or imminent loss or deterioration of –                             <ul style="list-style-type: none"> <li>(i) The structural integrity of the</li> </ul> </li> </ul>

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		<p>original dwelling; or</p> <p>(ii) An element of the 'original dwelling' that is integral to the character of the area in which it is located, as set out in a statement in a local planning policy adopted for the Residential Character Special Control Area.</p> <p>(2) Objectives The objectives for development and planning decision making within RC 1 are:</p> <p>(a) To ensure the conservation and retention of 'original dwellings' within the Residential Character Special Control Area where they are considered to contribute to the character of the area.</p> <p>(b) To ensure that new development, inclusive of alterations, additions to existing buildings, carports, garages, patios and front fences are in keeping with the character of the area, respect the scale and proportions of surrounding buildings, and are designed to fit into the existing streetscape.</p> <p>(3) Development approval Development approval is required for:</p> <p>(a) Demolition of 'original dwellings'.</p> <p>(b) All forms of development involving works except those listed as being exempt under an approved local planning policy.</p> <p>(4) Development requirements All development shall conform with the following:</p> <p>(a) The objectives of the Residential Character Special Control Area.</p> <p>(b) All relevant provisions of the Local Planning Policy adopted for the Residential Character Special Control Area.</p> <p>(c) Demolition of 'original dwellings' will not be permitted except where:</p> <p>(i) The dwelling is determined by Council to be structurally unsound; or</p> <p>(ii) The dwelling is wholly clad in</p>
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		<p>fibro or asbestos wall cladding; or</p> <p>(iii) Council considers that the dwelling does not make a positive contribution to the character of the area as a result of it having had significant external alterations.</p> <p>(5) Conservation notice</p> <p>(a) If the Town forms the view that an 'original dwelling' is not being properly maintained the Town may give to a person who is the owner or occupier of the 'original dwelling' a written notice requiring the person to carry out specified repairs to the 'original dwelling' by a specified time, being a time that is not less than 60 days after the day on which the notice is given.</p> <p>(b) If a person fails to comply with a conservation notice, the Town may enter the 'original dwelling' and carry out the repairs specified in the notice.</p> <p>(c) The expenses incurred by the Town in carrying out repairs under subclause (b) may be recovered as a debt due from the person to whom the notice was given in a court of competent jurisdiction.</p> <p>(d) The Town may –</p> <p>(i) Vary a conservation notice to extend the time for carrying out the specified repairs; or</p> <p>(ii) Revoke a conservation notice.</p> <p>(e) A person who is given a conservation notice may apply to the State Administrative Tribunal for a review, in accordance with Part 14 of the Act, of a decision –</p> <p>(i) To give the notice; or</p> <p>(ii) To require repairs specified in the notice to be carried out; or</p> <p>(iii) To require repairs specified in the notice to be carried out by the time specified in the notice.</p>
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1.4 Amend Precinct Plans P5, P6, P10 – Sheet A and P12 – Sheets A & B by including in the legend a heading “Land Use and Development Controls” and

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*then underneath a black border and number RC 1 within the boundaries of the border described as Residential Character Area subject to Division 3 and Schedule 7 of the Town Planning Scheme Text.*

- 1.5 *Amend Precinct Plans P5, P6, P10 – Sheet A and P12 – Sheets A & B by delineating the Residential Character Special Control Area using a black border and the number RC1 within the boundaries of the border.*
2. *The Chief Executive Officer and Mayor be authorised to execute the Town Planning Scheme No. 1 Amendment No. 73 documents.*
3. *Amendment No. 73 be referred to the Department of Environment and Conservation prior to the commencement of advertising of the Amendment.*
4. *On receipt of advice from the Environmental Protection Authority under Section 48A of the Environmental Protection Act indicating that the Amendment need not be subject to an environmental assessment, the Amendment be advertised in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 for 42 days.”*

Analysis of Recent Demolition Activity

The *Residential Character Study Review 2010* identified that there are approximately 1,912 original dwellings still remaining within the Residential Character Study Area, representing 64% of all dwellings at the front of a lot facing the primary street, and 34% of all dwellings in total (there being approximately 5570 dwellings located within the Residential Character Study Area at this time). The number of original dwellings quoted in the 2010 review were a revised figure based on a street by street visual survey carried out in October and November 2008.

An analysis of available demolition permit data from April 2013 to May 2017 (i.e. the last 50 months), has been carried out, and a summary of monthly activity is graphed below.

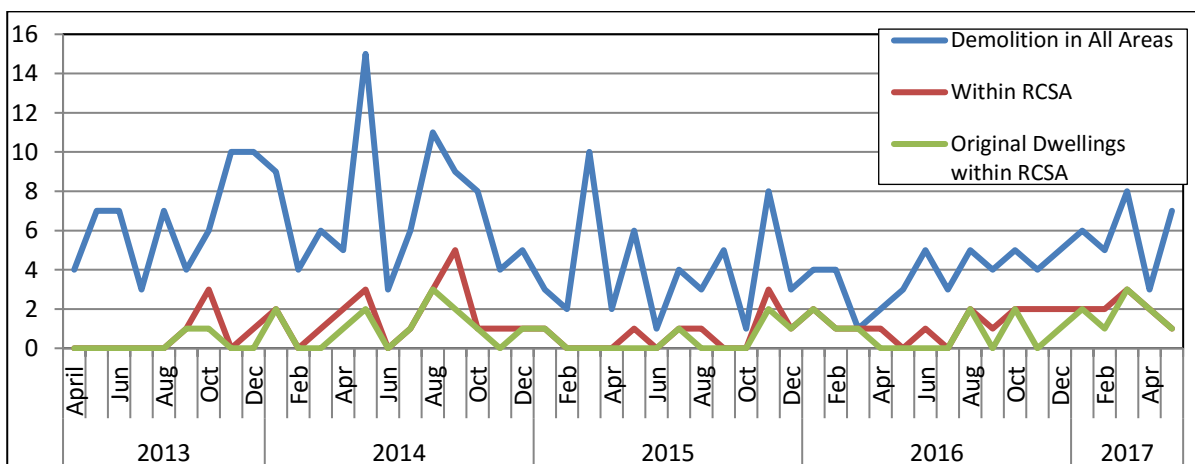


Figure 1: Monthly demolition activity - April 2013 to May 2017

Calculation of monthly average demolition rates has revealed that permits are granted for 5.3 dwellings to be demolished within the Town each month. Of these, 1.16 dwellings are

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located within the Residential Character Study Area, and 0.78 of these are original dwellings. It should be noted that these figures include demolition of original dwellings that were structurally unsound or constructed of fibro/asbestos sheeting, which are permitted to be demolished as of right.

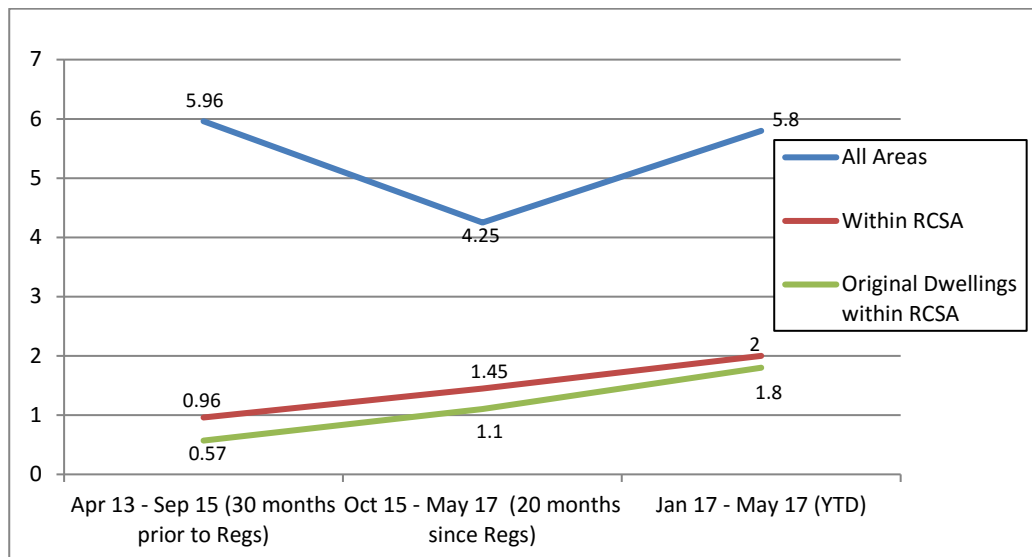


Figure 2: Average number of dwellings demolished per month

The average rate of demolitions in all areas since the introduction of the Regulations in October 2015 (i.e. the last 20 months) has decreased from an average of 5.96 demolitions per month in the 30 months preceding the introduction of the Regulations, to 4.25 demolitions per month over the last 20 months since their introduction. This reduced activity may be related to the recent downturn in the construction industry, and the WA economy generally.

Despite this overall decrease in demolition activity across the Town, the average rate of demolition of dwellings within the Residential Character Study Area has increased significantly in terms of percentage change, however it is noted that the actual number of demolitions occurring is still relatively low.

	Apr 13 to Sep 15	Oct 15 to May 17	% Change from Pre-Regs	Current YTD (Jan 17 to May 17)	% Change from Pre-Regs
<b>All Areas</b>	5.96	4.25	-40.2%	5.8	-2.7%
<b>Within RCSA</b>	0.96	1.45	+51%	2	+99.5%
<b>Original Dwellings in RCSA</b>	0.57	1.1	+93%	1.8	+215.7%

Table 1: % change in demolition activity following introduction of the Regulations (average no. of dwellings demolished per month)

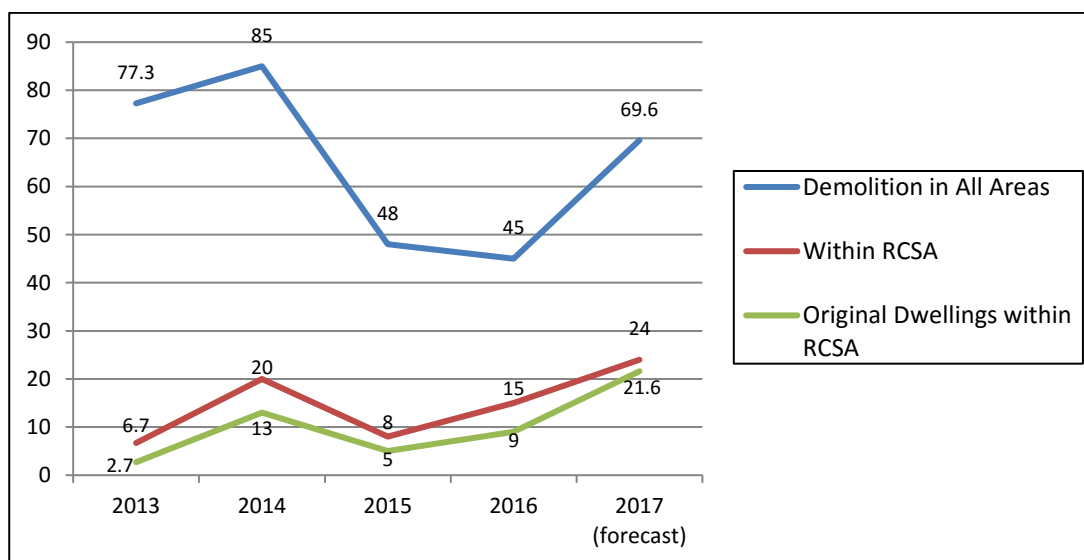
When considering the average rate of demolition for the current year a more significant shift to an average of 1.8 original dwellings demolished per month can be seen. This may represent greater awareness of the Regulations since their introduction and the greater publicity they have received since the public advertising of proposed Amendment 73 has occurred. An increased rate of demolition could also be associated with concerned

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property owners deciding to demolish their properties whilst the opportunity exists to do so without the need to obtain Council development approval, given the intent of proposed Amendment 73 to reinstate the requirement for development approval. It is also worth noting that 9 of the 10 dwellings demolished within the Residential Character Study Area from January to May 2017 were original dwellings.

If extrapolating based on these averages, and applying the pre-Regulations demolition rate of 0.57 original dwellings per month to those months since the visual survey of October 2008 being undertaken up until March 2013 (=53 months x 0.57 = 30 original dwellings demolished), and adding the available data of 38 original dwellings demolished since April 2013 to the present, an estimated total of 68 original dwellings have been demolished since the October 2008 visual survey was carried out, leaving approximately 1,844 original dwellings remaining within the Residential Character Study Area.

Applying the pre- and post-Regulations averages to the available data reveal the following yearly trend for demolition activity, noting that the below full year numbers for 2013 and 2017 are estimated values only based on monthly averages of known demolition data for these years. Based on the current monthly average for 2017 of 1.8 original dwellings demolished per month, a further 12 to 13 original dwellings will be demolished in the remainder of 2017 (from June to December).



**Figure 3: Annual demolition activity**

Whilst the overall number of demolitions may be considered low, the incremental loss of original dwellings has potential to significantly impact the quality and character of the Town’s established residential streetscapes. This is particularly the case for larger landholders who may own a number of original dwellings in the same street with the hope or intention to redevelop or expand their current facilities now or in the future. One example is where a landowner has recently demolished 3 original dwellings on properties they own in Teague Street, between Harper and Duncan Streets, interrupting what was a previously intact, continuous row of 11 original dwellings.



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A significant increase in demolition activity within the Residential Character Study Area (as compared to pre-Regulations demolition activity) has been witnessed since the introduction of the Regulations in October 2015. The increased community awareness and publicity that Amendment 73 has generated may also be influencing this increase, given the Amendment would reinstate the need for development approval for demolition of Single Houses.

Council's decision on whether or not to recommend approval of the Amendment has potential to further increase or decrease pressure on demolition of original dwellings in the short-term, although it is considered that the longer-term objectives for the Residential Character Study Area should be the primary factor influencing how Council should decide to proceed with Amendment 73.

**DETAILS:**

Community consultation and public advertising of proposed Amendment No. 73 to the Town of Victoria Park Town Planning Scheme No. 1 has been completed in accordance with Local Planning Policy 37 'Community Consultation on Planning Proposals' and Part 5, Division 3 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. This commenced on Monday 6 February 2017 and closed on Tuesday 21 March 2017, and consisted of the following:

- Almost 5,000 letters sent directly to all property owners within the locality who may be affected by the proposed Amendment, specifically those properties located within the proposed Residential Character Special Control Area (equivalent to the area covered by the existing Residential Character Study Area);
- Letters to relevant public authorities and utility service providers;
- Three newspaper notices in the Southern Gazette local newspaper at the beginning of each fortnight of the consultation period;
- Notices on the Town's website, including online access to the Amendment documents; and
- Two Community Information Sessions run by Council Officers during the consultation period.

The relatively long period between initiation of the Scheme Amendment process in June 2016 and public advertising of Amendment 73 was due to a number of factors, including the need to avoid impacts on other significant community consultation projects, including the Evolve Project, and in order to avoid advertising over the Christmas/New Year holiday period for such a significant proposal when property owners may be on holiday or away from home for extended periods.

**Community Information Sessions**

Two community information sessions were held on 18 February 2017 and 2 March 2017, with 57 and 50 attendees registering their attendance at each of the information sessions respectively. It is estimated that 70-80 attendees may have actually been in attendance at each of the meetings.

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The purpose of the information sessions was for Council Officers to provide interested or concerned community members with an overview of the Amendment proposal and provide an opportunity for questions to be answered in order to facilitate greater clarity and understanding.

At both information sessions, there were both persons supporting aspects of the proposed Amendment and others objecting to the proposal. However, the majority of persons who spoke expressed opposition to the proposal.

A summary of the major views expressed by those in attendance at the meetings is provided below:

- A more robust and transparent assessment of which homes are designated as an 'original dwelling' should be carried out;
- The Streetscape Policy is in need of review;
- The demolition of older homes should be permitted as they are environmentally and economically unsustainable to service, maintain and repair;
- New homes to reflect traditional style but incorporate modern sustainable design should be encouraged;
- Renovating and maintaining timber cottages is unsustainable and a wasteful use of resources and money with poor outcomes;
- Sympathetic character can be achieved with new development that still allows for demolition to occur;
- The Amendment amounts to an unnecessary level of bureaucracy being imposed on property owners within the Residential Character Study Area;
- The consultation submissions should be transparently and objectively considered, independent of Council;
- The principle of wishing to maintain and enhance existing streetscapes is supported but forcing the retention of old weatherboards that are not fit for purpose is unfair;
- Concerns that Conservation Orders may not be able to be undertaken by owners who are in poor financial circumstances;
- The Streetscape Policy needs reviewing - the 'mock federation' homes currently being built will be the "80s brown brick dwellings" of the future that everyone wants to demolish in 20-30 years; and
- Oppose conservation notices - I still maintain my home well but want to retain my right to demolish.

#### Online Petition

There is currently an online petition "Stop Amendment 73" at *change.org* with 191 supporters/signees, however this has not been formally lodged with the Council and does not appear to register the full names or interest of those signing. It is noted that the petition has a goal of obtaining 200 signatures.

The petition is available to view from the below link:

[https://www.change.org/p/trevor-vaughan-mayor-of-victoria-park-stop-amendment-73?source\\_location=minibar](https://www.change.org/p/trevor-vaughan-mayor-of-victoria-park-stop-amendment-73?source_location=minibar) ; and is addressed to the Mayor and Elected Members stating the following:

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*“We the undersigned respectfully ask the Council to reconsider Amendment 73 to the Town Planning Scheme No. 1.*

*If there is agreement in the community that there should be a streetscape policy, then the first step of the Council should be to determine, with the community, what that streetscape policy should be. Only after that could a measure like Amendment 73 be considered; the cart has been put before the horse, and it is not a very good cart. It is not good enough in the 21<sup>st</sup> Century with diverse aims of sustainability, energy efficiency and changing lifestyles to simply say “protect everything built before date X”. Vic Park is better than this kind of lazy policymaking.*

*Secondly, the Council must abandon the draconian notion that it should have the right to force repairs on private property for little more reason than the aesthetic preferences of unelected bureaucrats. Not only is this wrong, but it will cost the ratepayers in legal fees when it is challenged in court, and rate payers have no interest in our money being used in such a cause.”*

**Summary of Submissions**

A proportionately small number of submissions (69) were received in response to the advertising of proposed Amendment 73, which included the posting of almost 5000 letters to the owners of properties within the proposed Residential Character Special Control Area. This number equates to a submission response rate of 1.4%. Of the 69 submissions received, 62 per cent stated that they were from an owner/resident of an original dwelling.

The submissions received consisted of the following:

- 51 objections (74% of submissions);
- 12 supporting submissions (17% of submissions);
- 3 submissions of partial support (4% of submissions);
- 2 submissions without a stated position (3% of submissions); and;
- 1 submission requesting a halt to any decision (1% of submissions).

A response to each of the submissions is provided as part of the schedule of submissions included as an attachment to this report.

A summary of the comments and issues raised in the submissions is provided below.

**Issues/Comments raised by Supporting Submissions (12)**

Major Theme	Comments
<b>Retention of original dwellings</b>	<ul style="list-style-type: none"> <li>• I support the proposed amendments that support the character and heritage of the Town of Victoria Park, by removing the opportunity to demolish the old style houses.</li> <li>• Urge Council to reformulate Council legislation to avoid the senseless destruction of the Town’s oldest and finest homes.</li> <li>• I was drawn to live in the Town because of its beautiful homes (both weatherboard and brick) and have sadly witnessed three of these dwellings knocked down in the past 2 months.</li> <li>• Many homes are capable of being repaired and renovated for a far cheaper price than the cost of a rebuild.</li> </ul>

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	<ul style="list-style-type: none"> <li>• More should be done to protect the valuable heritage character of our suburb.</li> <li>• Buyers who have chosen to keep the original character homes and modify them are proof there is no reason to demolish the original to live in a modern, efficient home.</li> <li>• Many original homes will be lost and replaced by apartments or massive homes that look like those in every other area, with the character of the area lost forever, if the Amendment is not approved.</li> <li>• Retention of character buildings is a legacy for future generations and an acknowledgement of our past.</li> </ul>
<b>Subdivision &amp; infill</b>	<ul style="list-style-type: none"> <li>• Subdivision and infill cannot be used as an excuse, as new dwellings can often be easily accommodated behind the original home as the original homes often sit close to the street.</li> </ul>
<b>Attraction of Town's character dwellings/ streetscapes</b>	<ul style="list-style-type: none"> <li>• Original/character dwellings are in high demand by young and old due to their attractive charm.</li> <li>• Old dwellings in this precinct give it its special character, and they should be preserved rather than bulldozed.</li> <li>• The Town is a wonderful place to live and the streets lined with beautiful character homes are by far my favourites.</li> <li>• I bought my homes because of the character of houses in surrounding streets – the jarrah weatherboards, iron roof, verandah and window frames are uniquely West Australian.</li> <li>• People have bought into the suburb because of the character with an understanding houses could not be demolished and that renovation needs to be in keeping with the character.</li> </ul>
<b>Design/Policy Requirements</b>	<ul style="list-style-type: none"> <li>• Council should be welcoming to architectural designs that respond to the existing heritage dwelling and streetscape, be they ultra-contemporary or in a more traditional style.</li> <li>• The Town should be more decisive about the construction that goes along the Albany Highway strip as well as the houses throughout the neighbourhood.</li> <li>• Renovation need to be in keeping with the character of the older homes.</li> <li>• The provisions that applied prior to 2015 were directly responsible to the improvement of the streetscape in my local area, with old houses being retained and restored.</li> <li>• Canterbury Terrace, Westminster Street and Nurse Lane are examples of many original homes being retained and restored, along with new homes that respect the character of the area.</li> <li>• I support Council's strategy to give them back some control in shaping the future of our Town and streetscapes.</li> <li>• The alternative is to let individuals and developers dictate the future look and feel of the Town and not the community as a whole.</li> </ul>

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	<ul style="list-style-type: none"> <li>• Additionally, I hope the Council is not going the way of South Perth and allowing high rise buildings because this is destroying the character of that suburb.</li> </ul>
<b>Promotion/incentives to retain original dwellings</b>	<ul style="list-style-type: none"> <li>• Council should showcase some of the innovative restorations and renovations done on character homes in the area to encourage residents (and potential buyers).</li> </ul>

**Issues/Comments raised in Submissions of Partial Support (3)**

<b>Major Theme</b>	<b>Comments</b>
<b>Demolition of original dwellings</b>	<ul style="list-style-type: none"> <li>• Support proposal to place sensible restrictions on demolition of original dwellings, particularly brick and tile character homes that are structurally sound.</li> <li>• It must be recognised that many original weatherboard and asbestos dwellings were poorly constructed and designed, and after a lifetime of neglect are beyond repair.</li> <li>• In these cases demolition is the only sensible option, providing that the replacement dwelling meets the Council's heritage and other design/construction provisions.</li> </ul>
<b>Conservation Notices</b>	<ul style="list-style-type: none"> <li>• Regulations to force homeowners to maintain their properties will be problematic and requires a moderated approach.</li> <li>• Generally support Amendment with exception of proposed power to issue Conservation Notices.</li> </ul>
<b>Development Standards/Policy Requirements</b>	<ul style="list-style-type: none"> <li>• The principle of setting construction/renovation and design standards for original and new residential properties is sound.</li> <li>• Sensible regulations to preserve the heritage value of the area are beneficial provided applications processed are efficient and fees are kept low.</li> <li>• Should be a balanced approach that upholds heritage values but respects the rights of property owners.</li> <li>• Draconian over-regulation should be avoided.</li> <li>• There should be balance allowing home owners the flexibility to make improvements without Council approval and/or with limited involvement.</li> </ul>
<b>Further Review/Community Consultation</b>	<ul style="list-style-type: none"> <li>• Further community consultation should be undertaken to establish appropriate policy boundaries/rules with the community.</li> <li>• Any new Council system should avoid unnecessary problems and delays for property owners seeking to improve their properties.</li> <li>• Council must take heed of its Evolve Public Participation results in relation to these matters – e.g. The prevailing attitudes to buildings, streetscapes and especially in protecting/improving native tree canopy in private and public spaces.</li> </ul>

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**Issues/Comments raised in Objections (51) and Other Submission Types (3):**

<b>Major Theme</b>	<b>Comments</b>
<p><b>Quality of consultation documents/ communication</b></p>	<ul style="list-style-type: none"> <li>• Map initially provided was poor and difficult to read.</li> <li>• Consultation letter did not make it clear how people would be affected by the Amendment.</li> <li>• Council Policies and communication seems to be kept deliberately vague/opaque and does not serve residents/ratepayers.</li> <li>• The Council has not been forthcoming in alerting property owners of the introduction of the State Government legislation in October 2015, which is a freedom/right which the community should have been made aware of.</li> <li>• The community consultation letter was the first communication received by many in the community of these changes and a clear explanation of what rights the proposed Amendment would remove in respect to the State Government legislative changes was not provided.</li> <li>• The “original dwellings” are not included in the amendment documentation but in a map contained in a Local Planning Policy adopted for the Residential Character Study Area – it is difficult to understand what has been achieved other than trying to hide the impact of the Amendment from owners of original dwellings by excluding the map from the Amendment.</li> <li>• The map of “character” dwellings and the Streetscape Policy need to be reviewed as they do not accurately reflect the current situation.</li> </ul>
<p><b>Special Control Area Boundary/Coverage</b></p>	<ul style="list-style-type: none"> <li>• Seems illogical to include an ugly, non-historical triplex in a residential character special control area.</li> <li>• Even if the Streetscape policy is continued all of Burswood should be excluded (including the portion south of Great Eastern Highway) as it is a special area connected to and part of the whole Burswood Peninsula.</li> <li>• If Council wishes to keep the Burswood Peninsular out of the control of the City of Perth they should ensure that the whole of Burswood, including the area south of Great Eastern Highway is of the same dynamic quality.</li> <li>• People live in the area mainly for its close proximity to amenities and good services. Lesser reasons include family, work and to some people the opportunity to renovate the very few remaining quality character homes.</li> <li>• If Council wishes to continue with some character control system, then Burswood should be excluded, as it is clearly a distinct entity from the rest of Victoria Park owing to its connection to the Peninsula.</li> <li>• Areas suitable and with potential for redevelopment within the Residential Character Study Area need to be identified and excluded from the proposed Special Control Area (e.g.</li> </ul>

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	<p>properties located near Albany Highway and Shepperton Road zoned for high density development).</p> <ul style="list-style-type: none"> <li>• The Amendment should be abandoned in its entirety, but if proceeded with exclude the area of land subject to TPS Amendment 67 from the Special Control Area, which allows multiple dwellings on the affected land.</li> </ul>
<b>Impingement of property rights</b>	<ul style="list-style-type: none"> <li>• Prohibiting owners from demolishing (without planning approval from Council) is an attack on our property rights.</li> </ul>
<b>Subdivision/development potential</b>	<ul style="list-style-type: none"> <li>• The Amendment undermines the subdivision potential of my property.</li> <li>• Retention of original dwellings will prevent subdivision potential being realised.</li> <li>• Retention forces the lots for the rear dwellings to be constrained and restricted in size.</li> </ul>
<b>Decreased Property values</b>	<ul style="list-style-type: none"> <li>• When you go sell the old house potential buyers say its old and falling apart, that it's drafty and full of vermin, and makes reduced offers as it needs a lot of work to be brought up to modern standards.</li> <li>• Proposal will significantly reduce our property value and make it very difficult to sell should we ever choose or need to, including the necessity to sell to fund our aged care in future.</li> <li>• Forced retention of original dwellings doesn't produce or lead to increased property values.</li> </ul>
<b>Increased costs to maintain/restore original dwellings</b>	<ul style="list-style-type: none"> <li>• Very expensive to restore/retain homes that are of poor quality construction and falling apart.</li> <li>• A very onerous and costly burden to have to restore homes that nobody wants.</li> <li>• If Council is so keen on restoring and preserving old weatherboard homes they should purchase the properties themselves and pour their own money into their expensive maintenance and upkeep.</li> <li>• No compensation or consideration is provided for the owners of original dwellings who will be denied their freedoms to repair or renovate in a manner of their choosing – instead they are being penalised.</li> </ul>
<b>Standard of construction/liveability of original dwellings</b>	<ul style="list-style-type: none"> <li>• Timber weatherboard homes are prone to vermin infestation, are drafty and energy inefficient.</li> <li>• These dwellings (i.e. timber weatherboard cottages) were built as cheap blue collar homes after WWI, and are hot in summer and cold in winter. 94 years on this continues to be the case even after pushing insulation into every wall cavity and ceiling space.</li> <li>• These houses are a significant drain on time and money to maintain and are no longer fit for purpose, particularly given their level of deterioration and increasing level of discomfort in our ever hotter summers.</li> </ul>

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	<ul style="list-style-type: none"> <li>• The original timber dwellings were always meant to be temporary structures, being the cheapest and most affordable homes of their time and constructed to that standard accordingly.</li> <li>• They are cold in winter, hot in summer and do not provide insulation against noise. They are prone to vermin and pest infestations, and do not perform to an environmentally acceptable standard.</li> <li>• Given the contemporary problems around power supply, energy efficiency, global warming, the reliance on the need for air conditioners to bring these homes (original dwellings) down to an acceptable temperature level is disappointing.</li> </ul>
<p><b>Undermines State Government infill/ density targets</b></p>	<ul style="list-style-type: none"> <li>• It would be much easier to achieve State Government infill targets if there is a single set for rules for all Council areas, without arbitrary local council policies/requirements.</li> <li>• The Amendment compromises State Planning Policy infill targets and is will prevent the density targets for the area from being achieved, which seek to limit Perth’s urban sprawl.</li> </ul>
<p><b>Retention/ restoration of original dwellings</b></p>	<ul style="list-style-type: none"> <li>• Home owners are being treated as sacrificial lambs for the benefit of individuals or groups within Council who seek to ‘prettify’ the area with character homes at our expense.</li> <li>• There are some well maintained and attractive examples of older housing through the Town and protection or not, these will be maintained and retained by the market because they have intrinsic value and a market sector to which they appeal.</li> <li>• Council offers no incentives for the retention of an original dwelling.</li> <li>• The proposed enforced maintenance of outdated housing and the denial of owners to demolish inappropriate, poor quality houses serves to reduce the attractiveness and desirability of the area, and reflects the current low values for property in the area in comparison to localities elsewhere within the same distance from the CBD.</li> <li>• What benefit is there in keeping buildings that have no architectural significance, were average in design and construction when built (let alone now) and are not energy efficient?</li> <li>• Many of the so called ‘original dwellings’ have been substantially altered and therefore do not truly represent their origins anyway.</li> </ul>
<p><b>Governance/ Transparency Concerns</b></p>	<ul style="list-style-type: none"> <li>• Proposal is highly questionable and raises potential conflict of interest/integrity issues which may currently be conveniently not visible or transparent to the community.</li> <li>• Council is over-extending its reach of authority into areas which have potential to have catastrophic consequences for their ratepayers – it is not intended to be ‘we’re moving the forward because we are moving our ratepayers backwards’.</li> </ul>



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	<ul style="list-style-type: none"> <li>• Councils across Australia are currently being subjected to audits and review of ethics and accountability for reason of proposals such as this. i.e. they are not in the best interests of their ratepayers.</li> <li>• Councils exist to serve their ratepayers, not to pursue poorly considered agendas.</li> <li>• The State Government legislation was introduced to minimise inconsistencies and delays in the planning approval process and would not have been introduced if communities and Government considered there were no issues relating to Local Planning Policies.</li> <li>• The premise of the Amendment is inconsistent with State Government legislation.</li> <li>• The argument to reinstate the previous level of Council control indicated contempt for the new State Government planning legislation which is designed to reduce red tape.</li> <li>• One of the reasons for the State Government legislation was to remove obstacles placed on development by local councils and provide an even playing field across council areas.</li> </ul>
<p><b>Excessive power control prevention of demolition &amp; Conservation Notices</b></p>	<ul style="list-style-type: none"> <li>• No Council should have the power to enter a property and compel the owner to remedy a situation unless it is a clear breach of the R Codes or there is a safety issue that must be addressed.</li> <li>• The big brother approach taken by Council is completely undemocratic and a severe impediment to the freedoms that any property owner should be entitled.</li> <li>• The Amendment effectively means no original dwelling regardless of its condition will ever be demolished because the Council will be empowered (through Conservation Notices) to force residents to restore or repair the house and then the structure will be to a standard such that demolition cannot be justified.</li> <li>• The implementation of Amendment 73 will reinstate the draconian application of the Local Planning Policy – Streetscape.</li> <li>• The provisions of the Amendment will remove the democratic rights and entitlements to residents introduced by the 2015 State Government Regulations.</li> <li>• Council already have sufficient powers to enforce building standard without the introduction of Conservation Notices as a means of penalising home owners rather than encouraging them to improve their properties.</li> <li>• The introduction of Conservation Notices is a draconian measure and takes no account of the financial circumstance of property owners, and is not accompanied by financial incentives by Council to maintain and restore original dwellings.</li> </ul>

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<p><b>Heritage Concerns</b></p>	<ul style="list-style-type: none"> <li>• Normal heritage protection measures have been bypassed by the Planning department, that seeks to impose heritage type restriction via their Streetscape Policy without having done the appropriate work to justify that outcome for the housing stock in question and is improper.</li> </ul>
<p><b>Retention of Streetscape ‘Character’</b></p>	<ul style="list-style-type: none"> <li>• The original, working class character of the older homes is undesirable because it is unappealing to the majority of ratepayers; it lacks architectural quality or heritage value and is unattractive, sometimes even ugly.</li> <li>• The Council has maintained mediocrity in the design of suburbs with its Streetscape Policy, which explains the planning restrictions, lack of good quality design and imaginative suburban development. Times have changed and so should Council policy.</li> <li>• The concept of “Streetscape” has led to a suburban sameness brought about by stagnating architectural design and development, described at best as a “decaying down market area” or backwater.</li> <li>• South Perth shows that old and new residences can coexist and actually complement each other and furthermore add interest to the streetscape, by contrasting the old and new.</li> <li>• The Town’s retain at all cost attitude has led to a Town full of second rate “battleaxe” style developments squeezed down the side of very average housing stock.</li> <li>• The combination of these properties makes for an extremely boring streetscape of houses that do not embrace any modern design innovation.</li> <li>• There seems to be a nostalgia that prevails within the Council which fails to grasp how hot these houses become in summer, and confuses complementary colour schemes for weatherboards and white picket fences across the front of these cottages as a representation of some idyllic community.</li> <li>• The area has suffered with very poor streetscapes and low standard of design and construction.</li> <li>• Area is riddled with old tired houses that have exceeded their useful life which are completely inadequate to delivering for the needs and expectations of modern day families.</li> </ul>
<p><b>Streetscape Policy – Prescriptive content &amp; impacts on development</b></p>	<ul style="list-style-type: none"> <li>• Preservation and sympathetic enhancement of existing houses of actual heritage values is supported by most residents, however the Streetscape Policy is overly-prescriptive, lacks coherence/clarity and is utilised by Planning staff in a zealously stringent and inflexible manner if it doesn’t meet their perceptions of “appropriately traditional”.</li> <li>• The very prescriptive provisions add significant costs to development</li> <li>• New developments are subjected to the streetscape policy requirements even when it is not highly visible from the street</li> </ul>

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	<ul style="list-style-type: none"> <li>• Is overly prescriptive specifying everything from roof angle to bricks and mortar</li> <li>• There seems to be a nostalgia that prevails within the Council which fails to grasp how hot these houses become in summer, and confuses complementary colour schemes for weatherboards and white picket fences across the front of these cottages as a representation of some idyllic community.</li> <li>• The Streetscape Policy stifles good development and unless a proposal fits the mould of red, cream or zincalume coloured materials it was not granted approval.</li> <li>• Its requirement for new development (and renovations) to strictly emulate adjacent pre-1945 properties in a tacky, overly-prescriptive way that does not represent best design principles is inappropriate, costly and results in suboptimal outcomes, resulting in “ugly faux character” sitting alongside “real character”.</li> <li>• The approach taken by the existing Streetscape Policy is to preserve anything older than 1945 at all costs, even if ugly, lacking heritage value and not worth preserving.</li> </ul>
<p><b>Streetscape Policy – Energy efficiency &amp; environmental sustainability provisions</b></p>	<ul style="list-style-type: none"> <li>• Council should adopt a long-term approach that encourages better and more innovative use of space, design and materials to foster energy efficient homes with stable core temperatures, and minimised reliance on air conditioners</li> </ul>
<p><b>Streetscape Policy – Application of provisions and consistency of decisions</b></p>	<ul style="list-style-type: none"> <li>• Many builders complain that the Town is hard to work with and satisfy in terms of meeting the prescriptive requirements of the Streetscape Policy – many refused to even quote</li> <li>• Decisions made in applying the policy are inconsistent and applied in an illogical manner (lack common sense)</li> <li>• It is our experience that the Streetscape Policy has imposed additional requirements on development that are dealt with subjectively by the Planning department and has been a mechanism for preventing good development.</li> <li>• The Policy formed a second tier to the Residential Design Codes and in turn introduced inconsistency and delays in the development approval process.</li> <li>• I have been dismayed by the approach taken by Planning staff to rigidly enforce the prescriptive standards of the Policy, in a manner disproportionate to the issues in question.</li> </ul>
<p><b>Streetscape Policy – Relevance to community needs/aspirations</b></p>	<ul style="list-style-type: none"> <li>• Who is it that wants this “streetscape” desired by Council?</li> <li>• Council should concentrate on quality and minimum house areas rather than forcing everyone to build cheap copies of Federation style houses which in my opinion are just fake pretend character houses.</li> <li>• Let the old character houses shine.</li> <li>• Keep up with the times, you can’t keep building red brick and weatherboard houses forever, and no one wants them.</li> </ul>

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	<ul style="list-style-type: none"> <li>• Reduce waste, get rid of outdated policies instead of wasting time trying to protect the ‘Victorian age’ of original dwellings.</li> <li>• It is high time the Town of Victoria Park turned around and looked forward.</li> <li>• The introduction of the 2003 streetscape policy was a regressive policy that has slowly strangled creativity, investment and driven people who may have made fantastic contributions out of the area.</li> <li>• Any revised Streetscape Policy must enshrine that Council staff must explicitly justify how an alleged variation from policy requirements will detract from heritage or streetscape character and clearly express the appeal rights available to have the application reconsidered by Council or the State Administrative Tribunal.</li> </ul>
<p><b>Local Planning Policy, local government planning controls generally</b></p>	<ul style="list-style-type: none"> <li>• The Town should be stripped of its planning powers</li> <li>• There should be a single set of rules for all Council areas</li> <li>• Would like to have the ability to redevelop/modernise my house (not an original dwelling) without extra obstructions/restrictions and excessive paperwork and expense imposed by Council</li> <li>• Residents who own or are purchasing a home should, within reason be free to enhance or develop their asset and not have regressive architectural restriction placed upon them – restrictions imposed on them by a group of Council employees who have the power to approve or disapprove.</li> <li>• Rules applied by Councils should be fair and reasonable to all residents equally, and allow for the development of vibrant, architecturally exciting suburbs that are not confined within a balloon of mediocrity.</li> <li>• The whole concept of a ‘Special Control Area’ should be abandoned. It is what it says – control – imposed unfairly and arbitrarily by Council employees over the rights of home owners/ratepayers to improve their properties.</li> <li>• Planning guidelines should always give preference to imaginative design and freedom of architectural form, over bureaucratic policy.</li> <li>• It is high time the Town of Victoria Park turned around and looked forward.</li> <li>• The far reaching and unprecedented power which this amendment seeks is frightening to a ratepayer and I question the legality of some of what the amendment proposes.</li> </ul>

Referral Agency Comments

No objections were received to Amendment 73 from any of the State Government agencies or utility service providers consulted.

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However, the State Heritage Office, whilst stating that it does not oppose the Amendment, did state that the proposed use of a Special Control Area to achieve retention of original dwellings for heritage and/or character conservation purposes was not its preferred approach. The submission from the State Heritage Office is included in full below:

- “1. *State Planning Policy 3.5, Historic Heritage Conservation (SPP3.5) details the importance of distinguishing between heritage areas and urban character areas. It explains that heritage is retained through conservation and preservation of identified heritage places, while character may be maintained through replication of design and landscape elements.*

*Where a place has been identified as having heritage value, the WA planning framework allows for it to be subject to additional controls to support retention and conservation. Heritage values are associated with the fabric of a place and cannot be replicated by new development.*

*Elements that contribute to an area’s character simply through their form and design may be replaced by new development, which has the potential to make similar or greater contribution to the character of an area by following design guidelines and related policies.*

*The scheme amendment proposes to designate the Residential Character Study Area as a Special Control Area, which will result in the need for approval to demolish ‘original dwellings’.*

*Given the intention to retain these ‘original dwellings’ we would suggest that they are places of heritage significance, and should be managed through the declaration of a heritage area under the local planning scheme.*

2. *Heritage areas should be designated on the basis of a clear statement of significance and are likely to be rare in any given location. However, the extent and concentration of ‘original’ dwellings suggests that there are a number of potential heritage areas within the Town, some of substantial size.*

*The research, consultation and drafting required to adopt a heritage area and associated local planning policy may take some time, and may be a medium – to long-term objective of the Town.*

3. *Whilst the use of a special control area is not the preferred approach, we recognise that it could provide some benefits in retaining significant fabric that, with further assessment, may be identified as forming a heritage area. We therefore have no objection to this proposal.*
4. *Noting the difficulties experienced in similar situations in determining which buildings contribute to the significance of a ‘character’ area, the Town may wish to review its definition of ‘original’ to ensure that it provides sufficient clarity and direction to support the Council’s intended outcomes.*

*Further review may also be required to ensure that the boundaries of the proposed area are the minimum necessary to retain the most significant streetscapes and character areas.”*

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### Extension of Time

In response to a request from Council's administration, the WAPC has granted an extension of time for presenting the submissions received during the consultation period and any recommendations to the Ordinary Council Meeting. The timeframe has been extended to 15 September 2017, by which time Council will need to have resolved its recommendation to the WAPC to either support the amendment without modification, support it with modifications or not support the amendment.

### **Legal Compliance:**

#### Planning and Development (Local Planning Scheme) Regulations 2015

- **Classification of Amendment 73**

Further to the initiation of Amendment 73 to Town Planning Scheme No. 1 on 14 June 2016, the Council, at its Ordinary Meeting held on 13 September 2016, determined to classify Amendment 73 as a 'standard amendment' in accordance with Regulation 35 of the Regulations for the following reasons:

- “(i) *The amendment is consistent with the 'Statement of Intent' and objectives for the 'Residential' Zone contained within the Precinct Plans for the Raphael, Victoria Park, Shepperton and East Victoria Park Precincts under Town Planning Scheme No.1; and*
- (iv) *The amendment will have minimal impact on land in the scheme area that is not the subject of the amendment.”*

- **Consideration of Submissions**

In accordance with Division 3, Clause 50(2) of the Regulations, the local government must consider all submissions in relation to a standard amendment to a local planning scheme.

- **Council Resolution**

In accordance with Division 3, Clause 50(3) of the Regulations, before the end of the consideration period for a standard amendment to a local planning scheme, or a later date approved by the Commission, the local government must pass a resolution –

- a) *to support the amendment without modification; or*
- b) *to support the amendment with proposed modifications to address issues raised in the submissions; or*
- c) *not to support the amendment.*

### **Policy Implications:**

The decision on whether or not to progress with proposed Amendment 73 will significantly impact on the ability of the Council to protect its traditional residential streetscapes from further loss of original dwellings, using its current suite of town planning scheme and policy controls, most notably Local Planning Policy 25 'Streetscape'. This presents a number of risks, which are touched upon below.

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**Risk Management Considerations:**

<b>Risk &amp; Consequence</b>	<b>Consequence Rating</b>	<b>Likelihood Rating</b>	<b>Overall Risk Analysis</b>	<b>Mitigation Actions</b>
The further incremental loss of original dwellings if measures are not pursued to prevent demolition or incentivise retention of original dwellings within the Residential Character Study Area	Moderate	Almost Certain	High	Proceed with the Amendment in its recommended modified form, and undertake further work, in consultation with the community, to determine the desired outcomes for the area, and then develop and implement appropriate controls.
The quality and character of established streetscapes may be harmed through unsympathetic alterations and additions or the construction of new homes that are not required to meet the design requirements of Local Planning Policy 25 'Streetscape' if they comply with the Single House requirements of the Residential Design Codes.	Moderate	Likely	High	Further consider the need for all development to require development approval, and design requirements which allow more contemporary design solutions that still respect the character of the area.

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<p>If Amendment 73 is progressed in its advertised form, the community may perceive that the Council is unwilling or does not seriously consider the views expressed by members of the community or the desire for increased participation in the decision-making process.</p>	<p>Major</p>	<p>Likely</p>	<p>High</p>	<p>Proceed with the Amendment in its recommended modified form and undertake further community engagement.</p>
<p>The Amendment may not be supported by the Western Australian Planning Commission and or the Hon. Minister for Planning.</p>	<p>Moderate</p>	<p>Possible</p>	<p>Moderate</p>	<p>Council Officers have already met with officers of the Department of Planning to discuss the proposal and obtain feedback.</p>

**Sustainability Assessment:**

External Economic Implications:

Nil

Cultural Issues:

Nil

Environmental Issues:

Nil

**COMMENT:**

State Government Planning Reform Agenda

The Regulations were introduced as one of a suite of measures to streamline the development approvals system in WA (i.e. reduce 'red tape') and create greater consistency between local governments. These and other measures are aimed at increasing certainty and timeliness for the development and construction industry, and promoting greater housing supply and affordability.



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Early discussions with Department of Planning Officers had indicated a potential willingness to consider proposed Amendment 73 given the intent to re-establish previously existing protections for original dwellings within the Town's Residential Character Study Area, rather than imposing a new level of local planning scheme controls that could be viewed as contrary to the intent of the State Government's planning reform agenda.

However, more recent advice indicates that Department of Planning Officers may have concerns with the proposed Amendment (in its advertised form), and that it may be viewed as contrary to the intent of the Regulations by seeking to fully reinstate a level of planning control across a large portion of the Town's residential area that the Regulations specifically sought to remove, and that such an approach would be inconsistent with the development approval requirements of most other local governments. In particular, this concern related to the proposed reinstatement of the requirement for development approval for a new Single House or additions to a Single House in the Residential Character Study Area, where it complies with the requirements of the Residential Design Codes.

#### Recent Discussions with State Heritage Office and Department of Planning

In view of the above, meetings have recently been held with senior Department of Planning and State Heritage Officers, to further understand these concerns and establish a potential way forward, including potentially a modified Amendment proposal, that maintains the underlying intent of Amendment 73, being the conservation of the Town's character and traditional residential streetscapes.

The discussion with the State Heritage Office centred around the Town's priority to ensure at least some level of protection for the Town's original dwellings, which once demolished can lead to the significant loss of streetscape character, even where the replacement development is of a sympathetic scale and design to other dwellings. Further to their written comments, the State Heritage Office maintained that (in their view) the most appropriate method for the protection of the Town's original dwellings was the further assessment and rigorous review of the Residential Character Study Area to identify the locations of significant groups of original dwellings worthy of protection through formal declaration as a Heritage Area under Council's Town Planning Scheme No. 1.

Notwithstanding this view, it was suggested that Council consider a modified Amendment proposal as an appropriate interim measure to ensure some level of protection for the Town's original dwellings while the rigorous assessment requirements and detailed work required to establish appropriate heritage protection measures as well as other potential original dwelling retention incentives under Town Planning Scheme No. 1 can be progressed. As a result of this meeting Council Officers considered that it may be appropriate to prepare a modified, simplified version of Amendment 73, which includes a sunset clause, to establish the Residential Character Study Area as a Special Control Area, as an interim protection measure whilst further detailed work is committed to and progressed by the Town to further review the desired future character of the Residential Character Study Area and, if necessary, identify those groups of original dwellings worthy of formal heritage protection.

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A meeting was also subsequently held with senior officers of the Department of Planning. The outcomes of the meeting with the State Heritage Office were discussed as well as the concerns of Department of Planning Officers, who shared a similar view to the State Heritage Office.

The advice received at this meeting was that proposed Amendment 73 was unlikely to be supported in its advertised form, however a modified, simplified version may be supported which limits the Amendment to an interim (time-limited) designation of the Residential Character Study Area as a Special Control Area, and reintroduces the need for development approval for the demolition of Single Houses identified as 'original dwellings' for this time only. This potential support was indicated on the basis that the Town undertakes to further review and identify those areas of the Residential Character Study Area that are worthy of heritage protection (likely to be a restricted area) as well as progress other potential measures to incentivise retention of original dwellings. This approach would serve to protect the original dwellings in the Residential Character Study Area from further demolition at the current dates, while Council undertakes further work.

The investigation of other potential protection measures/incentives could include further review and testing of the outcomes of the 2010 review of the Residential Character Study Area that recommended a number of split density coding proposals aimed at facilitating the retention of original dwellings, whilst not reducing the development potential of the lots, through allowing increased density to occur at the rear of the original dwelling. These measures were proposed to be captured as part of the range of new measures to be implemented under Draft Local Planning Scheme No. 2, which is not being currently progressed, given the delays experienced with the WAPC and the need to complete further, revised strategic planning steps to address the current (now changed) state planning context and legislative requirements before a new local planning scheme is able to be progressed.

Most recently, discussions with Department of Planning Officers have raised the potential inclusion in a modified Amendment proposal for the reinstatement of the requirement for development approval within the Residential Character Study Area for Single Houses and additions and alterations to Single Houses in addition to the demolition of 'original dwellings' for a time-limited basis, to enable the Town to apply the provisions of Local Planning Policy 25 'Streetscape' to these forms of development. This was due to the fact that the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the Residential Design Codes WA (R-Codes) do not include a provision for development to have to comply with a local government's adopted local planning policy relating to streetscape matters in order to be exempt from the requirement for development approval. It was anticipated that proposed (and advertised) amendments to the R-Codes would insert a deemed-to-comply provision requiring development to meet the requirements of a local government's streetscape policy, however there is now doubt as to whether such an amendment will in fact be made to the R-Codes.

Whilst the reinstatement of the requirement for development approval for Single Houses and additions and alterations to Single Houses within the Residential Character Study Area is part of Amendment No. 73 (as advertised), Council Officers are of the view that the greatest risk for adverse impacts to the Town's streetscapes is the demolition of 'original dwellings' and that efforts should be focused primarily on this aspect as part of any

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reduced, modified Amendment proposal. This approach prioritises the issue considered by Council Officers to pose the greatest risk for adverse impacts on the Town's established residential streetscapes, and maximises the potential acceptance of the Amendment proposal by the Western Australian Planning Commission, given it would not impact on current exemptions from the requirement for development approval for R-Codes compliant Single Houses and additions and alterations to Single Houses, which has been previously raised by Department of Planning Officers.

#### Community Consultation

Some of the key messages arising from the submissions and concerns raised during the community consultation conducted for Amendment 73 include the following:

- Property owners and residents do not want to feel dictated to by the Council or have their perceived freedoms/rights reduced or curtailed;
- A majority of those who made submissions feel restrictions on the ability to demolish is an onerous, 'big brother' approach that unreasonably impinges upon their property rights;
- The proposed ability of the Council to serve Conservation Notices is a draconian, heavy-handed measure and one that unfairly considers property owners who may be in poor financial circumstances;
- A large number of objectors felt that the mandated retention of original timber weatherboard dwellings is unreasonable as they believe they are of poor structural quality, poor environmental performance and were built as inexpensive worker and post-war accommodation rather than permanent high quality (e.g. brick and tile) residential homes;
- The Local Planning Policy – Streetscape is in need of significant review and further efforts should be made to incentivise and promote environmentally sustainable design and innovative, contemporary architecture;
- The Town's planning department does not encourage design innovation and is overly restrictive and narrowly focused in its application of the Local Planning Policy – Streetscape;
- Any new or revised planning controls via a Scheme Amendment or Local Planning Policies should be crafted and designed with the input and feedback of community members before being progressed by Council; and
- The Council should consider an independent review of its current planning policy framework and design controls, that focuses on best practice solutions and looks beyond a 'business as usual' approach or maintaining the status quo.

The community consultation carried out for Amendment 73, despite exceeding relevant statutory requirements, has not been able to identify whether there is a broad level of support or opposition to the proposal within the community given the very low response rate. What it has identified, is that there are some highly concerned affected residents and

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property owners who are strongly opposed to the Amendment. In particular, the written submissions and verbal statements made by attendees at the community information sessions were strongly opposed to the 'demolition by neglect' provisions, namely the proposed ability of Council to serve conservation notices to property owners to carry out remedial works in the event of extreme negligence or damage to the architectural integrity of an original dwelling due to unauthorised works.

#### Community Expectations for Increased Engagement and Participation

There is a growing desire and increasing demand by residents and community members to be involved in the decision-making process, and to be provided with the opportunity to provide input and feedback into the development and implementation of government led strategies and projects of all kinds, at all levels.

Council-led community engagement projects such as the Evolve Project, 'Have Your Say' and other programs have also raised expectations in the community that exceed standard statutory consultation requirements and adopted policies of the Council, particularly with respect to Council-led town planning scheme or policy initiatives.

Whilst the submissions received during the community consultation process were overwhelmingly opposed to the Amendment, Council Officers are of the view that a 1.4% response rate does not give any clear direction as to whether or not the Amendment is supported by the community. The community consultation process, which was completed in excess of relevant statutory requirements, has not been able to identify whether a broad level of support (or opposition) exists for the measures proposed by Amendment 73.

A simple approach would be to either dismiss the proportionately small number of objections, given the very low 1.4% response rate, and continue pursuing the Amendment in its current form, or to give the objections greater weight as they represented the majority of submissions received, by no longer pursuing the Amendment at all or any other potential measures to protect or incentivise retention of original dwellings. However, either approach is not considered in keeping with good policymaking principles or to respect the opinions and aspirations of the community members whom will be affected by either of these options.

#### Community Engagement Opportunity

It is recommended that the Council utilise the outcomes of the consultation undertaken for proposed Amendment 73 as an opportunity to engage with the community on the desired outcomes for the area, including whether the Town's traditional residential areas should be protected and managed. Accordingly, it would then be proposed to prepare an appropriate statutory or policy solution that builds on this community input, which is then subject to further feedback and consultation with community members, and consideration by Council.

In view of the very low response rate, it is considered appropriate that Council consider carrying out an independent community engagement project to engage with the community and obtain a clear, broad understanding of the community's desires with respect to the retention and demolition of original dwellings and of the extent and type of development controls that should be applied to development within the Residential Character Study Area.

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Without first undertaking an engagement process to ascertain the needs and desires of the community, an appropriate framework or strategy is unable to be devised that captures and responds to the aspirations and values of the community as these will remain unknown, as is currently the case.

As part of such an engagement process, the evaluation phase of potential measures could include further review and testing of the outcomes of the 2010 review of the Residential Character Study Area that recommended a number of split density coding proposals aimed at facilitating retention of original dwellings, whilst achieving the same development potential of the lots as per their current R-Coding, as discussed previously in this report.

### Proposed Modification of Amendment 73

Having regard to the outcomes of the community consultation, and further to comments received and meetings held with Officers of the State Heritage Office and the Department of Planning, it is recommended that proposed Amendment 73 be modified. It is proposed to progress the modified Amendment with a sunset clause, whilst more detailed heritage assessment and community engagement is undertaken to establish the need for both appropriate longer-term protection measures for original dwellings and to complete the review and implementation of revised development controls for the Residential Character Study Area.

It is estimated that a two (2) year sunset clause would provide an appropriate interim timeframe to complete the necessary and detailed work to undertake a comprehensive review of the current Residential Character Study Area and the Town's planning instruments, in association with a comprehensive community engagement process, and to then implement the proposed town planning scheme and policy measures arising from these stages.

The simplification of the Amendment to deal primarily with demolition, and as an interim measure, addresses both the concerns of the State Heritage Office and Department of Planning, as well as a large number of the concerns raised in the submissions received during the consultation period, as it:

- is restricted to an interim, time-limited measure of two (2) years, whilst further detailed review and community engagement is undertaken;
- ensures at least a level of protection for original dwellings within the Residential Character Study Area by requiring development approval for demolition of Single Houses identified as 'original dwellings' and subjecting them to an assessment process by Council to determine if the demolition is either acceptable (in which case it will be approved) or potentially unacceptable due to adverse outcomes on the character of the Town's established streetscapes;
- is reduced to a relatively straightforward Amendment proposal that is simple to administer and can be easily understood by the community;
- removes the proposal to introduce 'demolition by neglect' provisions which would have enabled Council to issue Conservation Notices to property owners to undertake works to original dwellings (with Council instead continuing to rely on existing statutory powers to deal with unauthorised development/work for the time being); and

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- maintains the current exemption from development approval for additions to a Single House or construction of a new Single House where it is fully compliant with the Residential Design Codes, that was introduced by the deemed provisions of the *Planning and Development Act (Local Planning Schemes) Regulations 2015*.

Within the two year period Council Officers and appointed consultants, would then undertake a community engagement program, followed by any necessary further work to put appropriate longer-term controls in place, with considerations including:

- Incentives to retain 'original dwellings' including the potential introduction of split density codings;
- Review the location and designation of 'original dwellings' within the Residential Character Study Area;
- Identifying the more intact areas of original dwellings that contribute to a strong residential character and potentially designating these as 'heritage areas'; and
- Completing the review and amendment of Local Planning Policy 25 'Streetscape'.

#### **CONCLUSION:**

In view of the above, it is recommended that Amendment No. 73 to Town Planning Scheme No. 1 be supported subject to Modifications, as outlined below. It is further recommended to seek expressions of interest from suitably qualified consultants to carry out an independent community engagement project and review of the existing statutory planning and policy framework, as well as the review of the existing Residential Character Study Area, to arrive at a recommended series of measures for the long term protection (or otherwise) of original dwellings within the Residential Character Study Area and the implementation of revised development controls for new development.

Depending upon the outcome of the community engagement process a further Amendment and/or range of policy measures may be considered appropriate to facilitate the protection of original dwellings within the Residential Character Study Area and ensure new development is of a scale and form that respects and enhances the Town's established residential streetscapes.

#### **RECOMMENDATION/S:**

Moved: Cr Maxwell

Seconded: Cr Windram

That Council:

1. Resolve pursuant to Section 75 of the *Planning and Development Act 2005* to adopt Amendment No. 73 to the Town of Victoria Park Town Planning Scheme No. 1 for final approval, with modifications, to:
  - 1.1 Amend Clause 25A. (1) of the Scheme Text by including the following additional type of Special Control Area:
    - (c) Residential Character Areas shown on the Precinct Plans as RC with a number and included in Schedule E.

(To be confirmed 10 October 2017)

- 1.2 Insert in to ‘Division 2 – Special Control Areas’ of the Scheme Text the following Clause:

**25AC. RESIDENTIAL CHARACTER AREAS**

Schedule E describes the Residential Character Areas in more detail and sets out the purpose and particular requirements that may apply to the Residential Character Areas.

- 1.3 Amend “SCHEDULE E: SPECIAL CONTROL AREAS” contained in the Scheme Text to include a new Special Control Area – RC1 after DA1 incorporating the following text:

Area No	Land Description	Purpose and Particular Requirements
RC1	The whole of the area of land designated as RC1 on the Precinct Plans (known as the Residential Character Special Control Area).	<p>(1) Definitions</p> <p>In this section –</p> <ul style="list-style-type: none"> <li>• ‘Original dwelling’ means a dwelling that has been identified as an original dwelling within a local planning policy adopted for the Residential Character Special Control Area;</li> </ul> <p>(2) Objectives</p> <p>The objectives for development and planning decision making within RC1 are:</p> <p>(a) To ensure the conservation and retention of ‘original dwellings’ within the Residential Character Special Control Area where they are considered to contribute to the character of the area.</p> <p>(3) Development approval</p> <p>For a period of two (2) years from the date of gazettal, development approval is required for the demolition of an ‘original dwelling’, despite Clause 61 of Schedule 2 ‘Deemed provisions for local planning schemes’ of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>.</p> <p>(4) Development requirements</p> <p>Demolition of ‘original dwellings’ will not be permitted except where:</p>

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		<ul style="list-style-type: none"> <li>(a) The dwelling is determined by Council to be structurally unsound; or</li> <li>(b) The dwelling is wholly clad in fibro or asbestos wall cladding; or</li> <li>(c) Council considers that the dwelling does not make a positive contribution to the character of the area as a result of it having had significant external alterations, or for any other reasons.</li> </ul>
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1.4 Amend Precinct Plans P5, P6, P10 – Sheet A and P12 – Sheets A & B by including in the legend a heading “Land Use and Development Controls” and then underneath a black border and number RC1 within the boundaries of the border described as Residential Character Area subject to Division 2 and Schedule E of the Town Planning Scheme Text.

1.5 Amend Precinct Plans P5, P6, P10 – Sheet A and P12 – Sheets A & B by delineating the Residential Character Special Control Area using a black border and the number RC1 within the boundaries of the border.

2. The Chief Executive Officer and Mayor be authorised to execute the Town Planning Scheme No. 1 Amendment No. 73 documents and to have the common seal affixed.

3. Amendment No. 73 be forwarded to the Western Australian Planning Commission for final approval subject to modifications.

4. Council authorise the Town’s administration to seek expressions of interest from a minimum of three (3) independent, suitably qualified consultants to undertake a comprehensive community engagement project and review of the Town’s statutory planning and policy framework to:

4.1 Identify and measure the wishes of the community with respect to the retention of original dwellings within the Residential Character Study Area;

4.2 Identify potential town planning scheme and local planning policy measures to promote, incentivise or require the retention of original dwellings and the protection of character streetscapes within the Residential Character Study Area;

4.3 Undertake a review of the original dwellings within the Residential Character Study Area to identify those dwellings or groups of dwellings worthy of formal heritage protection either individually or collectively; and



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(To be confirmed 10 October 2017)

- 4.4 Review and provide a list of recommendations to the Council to amend Town Planning Scheme No. 1 and/or amend Local Planning Policy 25 'Streetscape', having regard to the outcomes of the community engagement process, and arriving at a recommended series of statutory and/or policy framework measures that is:
- i. aligned with the values of the community and the Council;
  - ii. can be easily understand by the community;
  - iii. is relatively simple to administer; and
  - iv. minimises the need to impose additional levels of regulation contrary to the intent of the *Planning and Development (Local Planning Schemes) Regulations 2015*; and
5. The Town's administration to provide a further report to Council, summarising the expressions of interest received during the expression of interest period and providing a recommendation to Council on the independent consultant(s) to engage to undertake Part 4 above.

**AMENDMENT:**

**Moved: Cr Oliver**

**Seconded: Cr Potter**

**That sub-section 3 and 4 of condition 1.3 be deleted.**

**The Motion was Put and**

**CARRIED (6-2)**

**In favour of the Motion: Cr Anderson; Cr Hayes; Cr Jacobs; Cr Maxwell; Cr Oliver; Cr Potter;**

**Against the Motion: Cr Ammons Noble; and Cr Windram**

**REASON:**

**The best person to decide if they renovate or build new is the person doing the building, providing it's not impacting on neighbours. The streetscape policy will help to inform and encourage people to build in a way that enhances the existing streetscape. Until the existing policy is reviewed, and until it is done there is only the existing policy to apply, so to force people to work any further under the existing policy is not a good idea and we can't enforce the policy in good conscience. The will remove the restrictions on demolition while still allowing the Town to work on the streetscape policy and reviewing original dwellings. Putting restrictions on is messy and creates a lot of confusion.**

**SUBSTANTIVE MOTION AS AMENDED:**

**Moved: Cr Maxwell**

**Seconded: Cr Windram**

**That Council:**

1. Resolve pursuant to Section 75 of the *Planning and Development Act 2005* to adopt Amendment No. 73 to the Town of Victoria Park Town Planning Scheme No. 1 for final approval, with modifications, to:

1.1 Amend Clause 25A. (1) of the Scheme Text by including the following additional type of Special Control Area:

(c) Residential Character Areas shown on the Precinct Plans as RC with a number and included in Schedule E.

1.2 Insert in to ‘Division 2 – Special Control Areas’ of the Scheme Text the following Clause:

**25AC. RESIDENTIAL CHARACTER AREAS**

Schedule E describes the Residential Character Areas in more detail and sets out the purpose and particular requirements that may apply to the Residential Character Areas.

1.3 Amend “SCHEDULE E: SPECIAL CONTROL AREAS” contained in the Scheme Text to include a new Special Control Area – RC1 after DA1 incorporating the following text:

Area No	Land Description	Purpose and Particular Requirements
RC1	The whole of the area of land designated as RC1 on the Precinct Plans (known as the Residential Character Special Control Area).	<p>(1) Definitions</p> <p>In this section –</p> <ul style="list-style-type: none"> <li>• ‘Original dwelling’ means a dwelling that has been identified as an original dwelling within a local planning policy adopted for the Residential Character Special Control Area;</li> </ul> <p>(2) Objectives</p> <p>The objectives for development and planning decision making within RC1 are:</p> <p>(a) To ensure the conservation and retention of ‘original dwellings’ within the Residential Character Special Control Area where they are considered to contribute to the character of the area.</p>

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(To be confirmed 10 October 2017)

- 1.4 Amend Precinct Plans P5, P6, P10 – Sheet A and P12 – Sheets A & B by including in the legend a heading “Land Use and Development Controls” and then underneath a black border and number RC1 within the boundaries of the border described as Residential Character Area subject to Division 2 and Schedule E of the Town Planning Scheme Text.
- 1.5 Amend Precinct Plans P5, P6, P10 – Sheet A and P12 – Sheets A & B by delineating the Residential Character Special Control Area using a black border and the number RC1 within the boundaries of the border.
2. The Chief Executive Officer and Mayor be authorised to execute the Town Planning Scheme No. 1 Amendment No. 73 documents and to have the common seal affixed.
3. Amendment No. 73 be forwarded to the Western Australian Planning Commission for final approval subject to modifications.
4. Council authorise the Town’s administration to seek expressions of interest from a minimum of three (3) independent, suitably qualified consultants to undertake a comprehensive community engagement project and review of the Town’s statutory planning and policy framework to:
  - 4.1 Identify and measure the wishes of the community with respect to the retention of original dwellings within the Residential Character Study Area;
  - 4.2 Identify potential town planning scheme and local planning policy measures to promote, incentivise or require the retention of original dwellings and the protection of character streetscapes within the Residential Character Study Area;
  - 4.3 Undertake a review of the original dwellings within the Residential Character Study Area to identify those dwellings or groups of dwellings worthy of formal heritage protection either individually or collectively; and
  - 4.4 Review and provide a list of recommendations to the Council to amend Town Planning Scheme No. 1 and/or amend Local Planning Policy 25 ‘Streetscape’, having regard to the outcomes of the community engagement process, and arriving at a recommended series of statutory and/or policy framework measures that is:
    - i. aligned with the values of the community and the Council;
    - ii. can be easily understand by the community;
    - iii. is relatively simple to administer; and
    - iv. minimises the need to impose additional levels of regulation contrary to the intent of the *Planning and Development (Local Planning Schemes) Regulations 2015*; and
5. The Town’s administration to provide a further report to Council, summarising the expressions of interest received during the expression of interest period and providing a recommendation to Council on the independent consultant(s) to engage to undertake Part 4 above.

**The Substantive Motion was Put and**

**CARRIED (7-1)**

**In favour of the Motion: Cr Ammons Noble; Cr Anderson; Cr Hayes; Cr Jacobs; Cr Maxwell; Cr Oliver; Cr Potter; and**

**Against the Motion: Cr Windram**